



City of Seattle

Gregory J. Nickels, Mayor
Department of Planning and Development
D.M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

Application Number: 2403622
Applicant Name: Richard Glasman
Address of Proposal: 11502 – 6th Avenue NW

SUMMARY OF PROPOSED ACTIONS

Master Use Permit for future construction of a cluster housing development of two single family residences with attached garages on a site in an environmentally critical area. A unit lot subdivision will be applied for under separate permit. Grading of approximately 1,485 cubic yards of material (775 cubic yards of cut and 710 cubic yards of fill) in a steep slope critical area is also considered in this review.

The following approvals are required:

Environmentally Critical Areas Conditional Use - to allow recovery of development credit in a critical area in a single-family zone. SMC 25.09.260

SEPA - Environmental Determination - SMC Chapter 25.05.

SEPA DETERMINATION: ☐ Exempt ☒ DNS ☐ MDNS ☐ EIS

☐ DNS with conditions

☐ DNS involving non-exempt grading or demolition or
involving another agency with jurisdiction

BACKGROUND DATA

The subject property is a 36,555-square-foot parcel zoned SF-9600: Single-Family Residential, with a minimum lot size of 9600 square feet. The property is described as the easterly portion of Lot 2, Block 2, View Lands Addition (AKA Parcel B ob Seattle Lot Boundary Adjustment No. 2104697). The subject property will hereafter be referred to as Parcel B. Parcel B is located just to the east of Carkeek Park in northwest Seattle. Parcel B is triangular in shape. It is approximately 180 feet wide on its westerly side and tapers to a point on the easterly side, with a depth of 393 feet on the north side. According to a survey and area calculations furnished by the applicant, Parcel B has two areas with topography that is less than 40% average slope or greater. One of these areas is in the northwesterly corner of the site near the 6th Avenue Northwest street end. The second area is in the south central part of Parcel B adjacent to the unopened Northwest 114th Street right of way. The remainder of the property, approximately 67% of the total area of the site or 24,387 square feet, is an environmentally critical area characterized by steep slopes of 40% average slope or greater. The areas of greatest declivity, up to 100% average slope, are in the easterly end of the site, near the “point” of the triangle, and southeasterly along the edge of the unopened Northwest 114th Street right of way. The slope is part of a ridge that runs parallel to the entire length of the Northwest 114th Street right of way to the west and into Carkeek Park.

Parcel B is presently undeveloped with structures, except for a small portion of an old retaining wall at the south edge of the site. The property is heavily forested, with a total of 74 trees of six-inch diameter or greater on the site, as well as an under story of grass and various native and non-native shrubs.

The zoning to the south, west, and northwest of Parcel B is SF-9600: Single-Family Residential, with a minimum lot size of 9600 square feet. The zoning due north of Parcel B and to the east, across 3rd Avenue Northwest, is SF-7200: Single-Family Residential, with a minimum lot size of 7200 square feet. Development in the vicinity is almost exclusively single-family residences. Carkeek Park is about two blocks to the west and Viewlands Elementary School is about four blocks to the south. Lot size in the surrounding blocks varies somewhat, but most lots, even in the nearby SF-7200 zone, range from near 9,000 square feet in area to about 20,000 square feet in area, with a few larger lots. Many nearby lots, particularly in the same block and the blocks to the south of the site are at least partly within steep slope critical areas.

Proposal

The proposal is to establish use for future construction of two new residences in a “cluster” development of two houses on the single existing lot. The houses are clustered only in the sense that there would be two houses on one existing lot. The applicant has further stated an intent to apply for a unit lot subdivision (authorized under Seattle Municipal Code (SMC) Section 23.24.045) of the existing lot into two new unit lots, and the proposal is depicted on the applicant’s plan sheet number A1.0, but the unit lot subdivision is not part of the current proposal. According to the survey provided by the applicant, the total area of Parcel B is about 36,555 square feet. This is enough area for three new lots meeting

the lot area standards of the SF-9600 zone. However, about 24,387 square feet of the property is within the steep slope critical area. Another 8,946 square feet of the property is within the 15-foot steep slope buffer area adjacent to the top of the slope in the northwesterly corner of Parcel B and adjacent to the toe of the slope in the south central portion of the property.

The steep slope area and its buffer may not, as a matter of right, be counted toward the minimum lot area requirement. If this area is subtracted, the total remaining area outside of the steep slope critical area is about 3,222 square feet. With a relatively small area of Parcel B located outside the steep slope critical area and its buffer, one house would be allowed outright on Parcel B. Accordingly, due to the high percentage of area of Parcel B that is within the steep slope critical area and buffer, the applicant has requested administrative conditional use approval to recover development credit for a second house on the property instead of the one house permitted outright and to transfer development credit from the steep slope critical area and its buffer to the westerly half of the existing lot. The proposal would entail disturbance of 18.8% of the site, including about 15.4% of the steep slope area and about 41.7% of the steep slope buffer. Clustering of the two houses is requested in that there would be two houses on one existing lot pending approval of a future unit lot subdivision.

The proposed new houses would be up to three stories in height with attached two-car garages similar in size and height to a number of nearby homes. The proposed houses would each have approximately 3600 square feet of living space. The garage for the westerly house would have an area of about 644 square feet and the easterly house garage would have an area of about 616 square feet. Total proposed lot coverage of all new structures would be about 5,028 square feet or about 13.8% of the total area of Parcel B. Total impervious surface, including driveways and walkways together with building footprints, would be about 7,720 square feet or 21.1% of the total area of Parcel B. Due to the uneven distribution over the site of areas less than 40% steep slope, the proposal would entail disturbance of about 3,752 square feet of steep slope area, or 15.4% of the total steep slope area. An additional 3,734 square feet of area within the 15-foot steep slope buffer area, or about 41.7% of the total buffer area, would be disturbed. The total disturbance within the critical area and buffer would be about 22.5% of the total. Nine trees of a total of 74 trees on site are proposed to be removed. The applicant proposes to replant in several disturbed areas, and no significant trees as defined in the Seattle Municipal Code are proposed to be removed.

Public Comment

Several comment letters and e-mails were received during the public comment period for the proposed project (in some cases more than one comment letter was sent by the same party). The comments primarily express concern about the effect of the proposed development on the steep slope critical area, including potential increased risk of slides and concerns about drainage, erosion, effect on wildlife, storm water runoff, effect on water quality in the Piper's Creek/Carkeek Park watershed, and loss of tree cover. A few comments expressed concern about increased traffic and the impact of the proposal on existing neighborhood character.

Environmentally Critical Areas Regulations

Seattle Municipal Code (SMC) Sections 25.09.040 and 25.09.060 establish standards that apply to all development within designated Environmentally Critical Areas, which includes submittal requirements for verifying the location of all such areas. SMC Section 25.09.180 provides specific standards for all development on steep slopes and steep slope buffers on existing lots, including the general requirement that development shall be avoided in steep slope areas whenever possible and, if avoidance of development in the steep slope areas is not practicable, then a standard applies limiting grading, developmental activity, and other land disturbing activity to a maximum of 30% of the area measured as steep slopes of 40% or greater. All decisions subject to these standards are non-appealable Type I decisions made by the Director (or designee) of DPD.

Conditions imposed as a means of compliance with the ECA ordinance are non-appealable. General requirements and standards described in Section 25.09.060 include the recording of conditions of approval and of the identified ECA areas in a permanent covenant with the property, as well as specific construction methods and procedures.

SMC Section 25.09.260 provides a process for DPD to authorize the recovery of development credit in a single-family zone through an administrative conditional use review. The Director may approve, condition, or deny an application based upon a determination of whether the proposed recovery of development credit on the site meets the applicable criteria. Section 25.09.260 further allows clustering of structures where reductions in yards or lot sizes will accommodate recovery of development credit, encourage larger buffers, reduce impervious surfaces, and decrease the size of areas affected by development. An ECA Conditional Use decision is a Type II decision, subject to the provisions of SMC 23.76, and is appealable to the City Hearing Examiner. As proposed, the two structures and other land disturbing activity would comply with the standard in SMC Section 25.09.180 A 3, which limits grading and other land disturbing activity to no more than 30% of the areas measured over 40% slope.

The Critical Areas Policies for steep slopes clearly indicate that the ECA Conditional Use is intended to allow recovery of development credit in steep slope areas where no alternative is available to avoid development of the steep slope, provided that the development standards for steep slopes set forth in Section 25.09.180 are met. The policies provide in part, at page 48:

“Although the basic provisions of these policies are geared to keeping development off of steep slopes, in some cases such development will be unavoidable: on existing lots where avoidance is not possible . . . or in new subdivision or short plats where development on steep slopes is permitted through the conditional use permit process In such cases, grading and other site disturbances, such as vegetation removal, on areas over 40% shall be minimized and in no case shall exceed 30% of the steep slope area.”

In this case, the survey submitted by the applicant shows that approximately 12,168 square feet of Parcel B is not within the steep slope critical area, but much of this area is strung across the site in narrow bands. There is one contiguous area less than 40% slope outside of the northwest corner of the property, which is located in the lower, south/central portion of the lot, but this area is not accessible without substantial site work and additional driveway development to reach the area. As a cluster development, the proposal meets yard standards, since the yards are measured around the perimeters of Parcel B from the lot lines of the existing lots.

Since the applicants have indicated that they will likely apply for a unit lot subdivision, it is appropriate to consider the yard reductions that are required in the event of subdivision. The concentration of development will require reduction of side yards between the two proposed houses to accommodate an eave overhang on the westerly house (House #1 on Plan Sheet A1.0) and an access bridge for the easterly house (House #2). The yard reductions would be from five feet to three feet six inches and from five feet to three feet, respectively. The proposed lot size for each unit lot would meet the minimum lot area requirement for the SF-9600 zone.

By clustering, with or without a unit lot subdivision, the proposal minimizes development in the steep slope critical area. The Critical Areas Policies for steep slopes specifically indicate that the ECA Conditional Use was intended to allow recovery of development credit in steep slope areas, where the development standards of either Section 25.09.180 A 1 or 25.09.180 A 3 are met.

ANALYSIS - ECA CONDITIONAL USE TO RECOVER DEVELOPMENT CREDIT AND PERMIT CLUSTERED DEVELOPMENT

Section 23.42.042 of the Seattle Land Use Code authorizes review of conditional use permits according to the procedures set forth in Chapter 23.76, Procedures for Master Use Permits and Council Land Use Decisions. Section 25.09.260 of the ECA ordinance sets forth the review criteria for Administrative Conditional Use Permits [ACU] to recover development credit and permit clustered development in single-family zones. Applicable review criteria and supporting analysis follows:

- A. Up to full development credit on-site (determined by calculating the maximum number of lots allowed based on the underlying single-family zoning and size of the originating property) may be granted by the Director through an administrative conditional use permit, authorized under SMC Section 23.42.042, Conditional uses, in the Land Use Code.

The minimum lot size in this zone is 9,600 square feet. Parcel B has approximately 36,555 square feet of area (inclusive of the steep slope area and its buffer). Although the total area of Parcel B is sufficient for three lots, the number of new residences proposed by this application is two, with a planned future unit lot subdivision of one lot into two. When the critical area and buffer are subtracted from the total lot area in calculating development credit, as required by SMC Section 25.09.240 D, only 3,222 square feet of non-critical lot area remains, which is considerably less than the 19,200 square feet of lot

area required for two lots (one house per lot). Thus, existing Parcel B does not meet the development standards for a short subdivision contained in SMC Section 25.09.240. However, the conditional use provisions of Section 25.09.260, which incorporate the critical areas policies, allow recovery of development credit and reduction of yards and lot sizes through clustering as an alternative to strict application of Section 25.09.240 D. The applicant has therefore applied for an ECA administrative conditional use to both “recover” sufficient development credit to allow construction of two houses (the maximum allowed by the total lot area is three) and to allow clustering of the two houses by reducing some side yards in the event of a future unit lot subdivision.

SMC Section 25.09.260 A allows recovery of development credit on a parcel of property provided that the criteria in that section are met.

Discussion of the criteria in subsection E (1-9) is followed by analysis of the clustering provisions of subsections F, G and H, and then by analysis of the general conditional use criteria of subsections B and C. Subsection D requires that DPD issue written findings of fact and conclusions to support its decision.

E. The Director may approve the transfer of development credit if it can be shown that the development would meet the following conditions and findings:

1. *The transfer of development credit shall not result in any significant increase of negative environmental impacts, including erosion, on the identified ECA and its buffer;*

As noted above, Section 25.09.180 A requires that development be avoided on steep slopes “whenever possible.” Thus, where a lot is comprised partly of steep slope areas and partly of areas less than 40% average slope or greater, as in the case of Parcel B, application of Section 25.09.180 A would ordinarily require that development be concentrated in the level area. Examples of the transfer of development credit on pages 62 and 63 of the critical areas policies suggest that the “transfer” was generally expected to occur from the critical portion of a site to the noncritical portion. In the case of Parcel B, such a scheme is not feasible, since the more level portions of the site are distributed throughout the property and development of building footprints strictly within the areas less than 40% average slope or greater would require disturbance of more of the total site than can be considered within the standards of SMC Section 25.09.180 A 3, which allows disturbance of up to 30% of the areas that are 40% steep slope or greater when it is not practicable to avoid disturbance of these steep slope areas.

Actual proposed disturbance of steep slope areas would be about 15.4%, or well within the scope of the standard set in Section 25.09.180 A 3. The applicant’s site plan indicates that the total area of steep slope to be developed or otherwise disturbed will not exceed 3,752 square feet.

Parcel B is currently covered with vegetation, including a number of large trees that contribute to slope stability. The proposed development must, of necessity, remove some vegetation and nine trees, only four of which are 24 inches or greater in diameter. Removal of vegetation is limited to the 12,168 square feet in the proposed disturbance area (non-critical area as well as 15.4% of steep slope areas). More than 66% of Parcel B will remain undeveloped, which will preserve many stands of trees within the steep slope steep slope buffer areas. Construction of a single house, which is now permitted outright on the property, and is subject to a lot coverage limit of 35% under SMC Section 23.44.010 C, would likely involve removal of much the same amount of vegetation and trees, in much the same area as the two house proposal. The trees proposed to be removed are all in the area of Parcel B most suited for development. Revegetation of several areas following construction is proposed. Revegetation will be required as a condition of approval of the development proposal.

The two-house proposal, if constructed only in the limited disturbance area identified on the plans, with appropriate revegetation and conducted according to the recommendations of the applicant's Geotechnical Engineer, will not significantly increase negative impacts on the environment, including erosion. Limitation of land disturbing activity will be a condition of approval of the proposed development, as will the designation of most of steep slope critical area and 58% of the buffer on Parcel B as a nondisturbance area by ECA covenant. Submittal of an erosion control plan will be a condition to be met prior to issuance of any building permits. The negative environmental impacts from the proposed transfer of development credit are essentially the same as would be expected from development of one single family house. The proposal, conditioned according to this decision, will meet the first criterion for conditional use approval.

2. *The development shall be reasonably compatible with neighborhood characteristics. This shall include but not be limited to concerns such as height, bulk, scale, yards, pedestrian environment, and amount of vegetation remaining;*

Lot sizes in the immediate neighborhood (particularly the immediate lots adjacent to Parcel B or directly south of it across the Northwest 114th Street right of way range from a minimum of 9,600 square feet to a maximum of 19,787 square feet, according to King County Assessor's records. Most lots in the immediate area are close to the zone minimum, up to a few hundred square feet greater than the minimum. The proposal is to cluster two houses on one lot with a total area of 36,555 square feet, for an average area of one house per 18,278 square feet of land. If the proposed unit lot subdivision were approved, the lot sizes would both exceed 9,600 square feet. Thus, the development in terms of lot area would be well within the range of similar lots in the immediate neighborhood. There will be minimal loss of vegetation from what is presently on Parcel B, consistent with what would be lost if only one house were developed on the property.

The proposed new houses will be two to three stories with attached two-car garages, and comparable in size and height to some nearby residences in the properties immediately adjacent to the site as well as other newly built and remodeled homes in the vicinity of Carkeek Park. The proposed homes will have areas of about 4,216 square feet and 4,244 square feet, including the living area and garage. At least

two other nearby houses have areas of 4,220 square feet and 4,150 square feet of living space and garage, similar to the proposed houses. While other houses in the immediate area appear to be somewhat smaller, other houses are also multistory with two-car garages similar in design to the proposed structures. Proposed yards will generally conform to the Land Use Code except for reduced side yards in the event of a future unit lot subdivision. The houses will blend into the hillside on which they are proposed to be constructed. Actual development coverage of the two structures will be well within the 35% total coverage limits permitted by the Land Use Code (about 18.8% of the total site). The effect of the extent of lot coverage on the appearance of the proposed development with respect to the rest of the neighborhood will not be much different than if one larger house with accessory development were built on existing Parcel B without discretionary conditional use approval.

The development will have no adverse effect on the pedestrian environment in the neighborhood. There will be standard yards facing 6th Avenue Northwest and the unopened Northwest 114th Street right of way. The new houses will share one driveway with one curbcut, just as there would be for one house. No significant increase in traffic will occur from two new houses within a cluster development with one shared driveway. The second criterion is met.

3. *In no case shall development credit be allowed for the area covered by an open water area of a wetland or riparian corridor.*

No development is proposed for an area covered by open water of a wetland or riparian corridor, so this criterion is met.

4. *The development shall retain and protect vegetation on designated undisturbed areas on and off site. Significant species or stands of trees shall be protected, and tree removal shall be minimized. Replacement and establishment of trees and vegetation shall be required where it is not possible to save trees.*

The two to three-story designs of the proposed new houses minimize the areas of the building footprints. Development will occur well within the standard for disturbance of steep slope areas set forth in SMC Section 25.09.180 A 3. Sixty-five existing trees with diameters from 6 inches to 36 inches will be preserved. No significant trees will be removed or damaged as a result of the development. Removal of trees will be mitigated by appropriate revegetation and landscaping within the construction area for the houses. Buffer areas that are not proposed for disturbance, as well as the steep slope areas on the site not proposed to be disturbed, will be protected by a temporary construction fence. With conditions attached to this decision including placement of fencing, establishing the bulk of the vegetated steep slope area and buffer as a nondisturbance area, and a landscaping plan for the construction area, the fourth criterion is satisfied by the proposal.

5. *The ability of natural drainage systems to control the quality and quantity of stormwater runoff shall not be significantly impaired.*

All stormwater runoff from impervious surfaces will be directed to a detention and/or infiltration system for the two houses to be located in the area at the southerly end of the property, near the unopened Northwest 114th Street right of way, which is less than 40% slope. A drainage control plan that complies with the City's Stormwater, Grading and Drainage Control Code is required as a condition of approval of the proposal. As conditioned, the fifth criterion is met.

6. *The development shall not adversely affect water quality and quantity, erosion potential, drainage, and slope stability of other ECAs located in the same drainage basin.*

While the proposed development will disturb some of the steep slope area, the applicant's geotechnical engineer has indicated that the soils within the Parcel B site are stable with respect to possible deep seated failures, and the proposed structures will be stable if founded on the dense native soils that underlie the site. Construction of foundation, basement, and rockery wall features as discussed in the applicant's geotechnical report will provide a sufficient catchment feature for any surficial soils that may be involved in debris slides from the adjacent steep slope. Disturbed areas not covered by impervious surfaces will be revegetated with appropriate ground cover and the impervious surfaces equipped with drainage infrastructure directed to a detention and/or infiltration system as discussed in criterion 5 above. The development, conditioned as recommended by the geotechnical engineer and in compliance with City Codes, will not adversely affect other ECAs in the same drainage basin.

The proposed development presents some risk of erosion and shallow debris slides during construction and other activities. Thus, the development must conform to the requirements of the landslide prone critical areas regulations and the Stormwater, Grading and Drainage Control regulations. An erosion and sediment control plan for the property employing Best Management Practices as outlined in DPD Director's Rule 16-00 will be required for the project. If constructed in conformity to City regulations and Best Management Practices, the development will not adversely affect water quality, erosion, drainage, or slope stability. The sixth criterion is therefore satisfied.

7. *The development's site plan shall include measures to minimize potential negative effects of the development on the undeveloped portion of the site, including provision of natural barriers.*

The proposed development, at the building permit stage, is subject to the following ECA requirements: dry season grading; the preparation of a detailed construction schedule; approved temporary and permanent erosion control plans; a comprehensive drainage control plan or alternative as determined by DPD plan review at the time of a building permit application; ECA covenants; bonds; insurance; a non-disturbance fence; adherence to geotechnical recommendations for development, and a pre-construction meeting.

The vegetated steep slope itself provides a significant natural barrier to intrusion into the non-disturbance area outlined on the applicant's site plan. The area is not practical for use as a yard or garden, and the

houses can be designed so that no direct access is provided to the steep slope nondisturbance areas from the houses. This will be a condition of project approval. The seventh criterion will therefore be met.

8. *Adequate infrastructure (streets and utilities) shall be available or will be provided; and*

Adequate infrastructure of streets and utilities are presently available. Sixth Avenue Northwest is a City street improved with paved roadway and a full complement of utilities. The unimproved Northwest 114th Street right of way has side sewer utilities. The eighth criterion is met.

9. *The Site Design Guidelines of Section 25.09.180C shall be followed for designated steep slope areas.*

Section 25.09.180 C 1 states that “Structures should be designed and placed on the hillside to minimize negative impacts, such as grading and land disturbing activity.” The proposal demonstrates that grading and other land disturbing activity on the steep slope areas of existing Parcel B will be well within the 30% standard for disturbance of the steep slope area in the steep slope development standards of Section 25.09.180 A 3. In addition, the proposed driveway is to be shared by the two proposed houses. Access is through existing street right-of-way that minimizes impacts to the steep slope critical areas. By concentrating new development in the northwest corner of the subject property, most of the steep slope and much of the 15-foot buffer will be protected from grading, land disturbing activity, and terracing. Thus, the ninth criterion is met.

- F. *The Director may approve more than one (1) dwelling unit per lot and may approve smaller than required lot sizes and yards to accommodate recovery of development credit, and to encourage larger buffers, reduce impermeable surfaces, and decrease size of affected area. Full development credit on-site shall not be increased beyond that permitted by the underlying single-family zone.*

SMC Section 25.09.260.F authorizes the Director to approve more than one dwelling unit per lot as well as smaller yards and lot sizes than ordinarily required in order to accommodate recovery of development credit and to encourage larger buffers, reduce impermeable surfaces, and decrease size of affected areas. In order to develop two houses on Parcel B while minimizing encroachment on the steep slope critical area, the applicant proposes a cluster development of two houses on one lot. In the event of approval of a future unit lot subdivision, there would be a reduction in side yards for the proposed houses from five feet to three feet six inches and three feet, in order to accommodate an eave and access bridge. All other development standards of the Land Use Code will be met for the two proposed houses. The reduced yards are reasonable in order to concentrate the development and minimize disturbance to the critical area and the amount of impermeable surfaces on Parcel B. Full development credit on existing Parcel B, which has a total of 36,555 square feet of area, would be three

houses, so the proposal to construct two new houses does not increase development credit on the site beyond what is permitted by the underlying zoning.

G. The Director may require that structures be located on the site in order to preserve or enhance topographical conditions, adjacent uses and the layout of the project and to maintain a compatible scale and design with the surrounding community. In order to approve clustered dwelling units in all environmentally critical areas, the following criteria shall be met:

1. *Clustering of units shall help to protect the following critical areas: riparian corridors, wetlands and steep slopes;*
2. *Clustering of units shall require siting of structures to minimize disturbance of the environment;*
3. *Clustering of units shall help to protect priority species or stands of mature trees;*
4. *Clustering of units shall ensure maximum retention of topographic features;*
5. *Clustering of units shall limit location of access and circulation to maximize the protection of an area's natural character and environmental resource;*
6. *Clustering of units shall help protect the visual continuity of natural greenery, tree canopy, and wildlife habitat;*
7. *Clustering of units shall not have an adverse impact on the character, design and scale of the surrounding neighborhood; and*
8. *Clustering of units shall promote expansion, restoration or enhancement of a riparian corridor and its buffer, a wetland and its buffer or a steep-slope area and its buffer*

Most of the clustering criteria have been discussed in the analysis of the recovery of development credit. The subject cluster will minimize disturbance to the steep slope area on the site, consistent with the standards of SMC Section 25.09.180 A 3 by concentrating all proposed new developmental coverage within the northwesterly portion of the property. The proposal will retain the topographic features on the remainder of the lot. Access and circulation to the proposed structures will be from a presently dedicated street right-of-way through one driveway and curbcut that will be shared by both houses. The addition of impervious surface to the property is well within the coverage limits of the Critical Areas Regulations and the Land Use Code. Thus, the development as proposed will not affect the area's natural character and environmental resources.

The proposal will preserve most existing vegetation and trees on the site. Additional planting will include landscaping within the building construction area using native Northwest tree and shrub species. With the imposition of a landscaping plan and establishment of nondisturbance areas on the site, the proposal suitably protects the visual continuity of existing natural greenery, tree canopy, and wildlife habitat. As previously described, the proposed houses and lot sizes are of comparable size and footprint to many other houses in the immediate neighborhood, and will therefore not have an adverse impact on neighborhood character, design or scale. The location of proposed development within the northwesterly part of Parcel B represents the best area for construction with minimal disturbance of the steep slope critical areas and buffers, while also minimizing grading and other land disturbing activity.

H. Additional Conditional Use Provisions for Steep Slopes and Steep-slope Buffers.

1. *In steep-slope areas and their buffers, the Director may allow clustering on the steep-slope portions of the site when the site is predominantly characterized by steep slopes. However, the preference shall be to cluster away from steep-slope and buffer areas.*
2. *The Director shall require clear and convincing evidence that the clustering criteria and findings of this subchapter are met when a transfer in development credit within a steep-slope area is also characterized by or adjacent to:*
 - a. *A wetland over fifteen hundred (1,500) square feet in size, or a stream or creek designated as a riparian corridor; or*
 - b. *A large (over five (5) acres) undeveloped steep-slope system; or*
 - c. *Areas designated by the Washington Department of Wildlife as urban natural open space habitat areas or areas with significant tree cover providing valuable wildlife habitat.*

Since Parcel B is predominantly characterized by steep slope and steep slope buffer areas, with areas of less than 40% slope spread across the site in narrow bands, the proposed clustering will require some disturbance of steep slope and buffer areas, but within the standards of Section 25.09.180 A 3. Accordingly, Criterion H.1 is satisfied. Criterion H.2 (a-c) is not applicable, since none of the features described are present on or adjacent to Lots 11 and 12.

- B. The Director may approve, condition or deny an application for an administrative conditional use. The Director's decision shall be based on a determination of whether the proposed transfer of development credit within the site meets the criteria for allowing the specific conditional use and whether the use will be materially detrimental to the public welfare or injurious to property in the zone or vicinity in which the property is located.

As discussed above, the proposed transfer of development credit and clustering within the site meets the conditional use criteria for approval. As proposed, and subject to the conditions of approval of this decision, the development would not be materially detrimental to the public welfare or injurious to property in the zone or vicinity in which Parcel B is located.

- C. In authorizing an administrative conditional use, the Director may mitigate adverse negative impacts by imposing requirements and conditions deemed necessary for the protection of other properties in the zone or vicinity in which the property is located.

Conditions have been included to mitigate potential adverse negative impacts. These conditions are set forth following the SEPA analysis below.

DECISION – Administrative Conditional Use

The proposal to recover development credit is **CONDITIONALLY GRANTED.**

ANALYSIS - SEPA

The initial disclosure of the potential impacts from this project was made in the environmental checklist. This information, along with the experience of the lead agency in similar situations, forms the basis for this analysis and decision. Short- and long-term adverse impacts are anticipated from the proposal.

The SEPA Overview Policy (SMC 25.05.665.D) states “where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation,” subject to limitations (see below under Long-term Impacts). Several adopted City codes and/or ordinances provide mitigation for some of the identified impacts. Specifically these are: the Stormwater, Grading and Drainage Control Code (soil erosion); and Building Code (construction standards). Compliance with these codes and ordinances will be adequate to achieve sufficient mitigation of identified adverse impacts.

Under SMC Section 25.05.908 B, the scope of environmental review within critical areas is limited to documenting that the proposal is consistent with ECA regulations, SMC Chapter 25.09, and to evaluating potentially significant impacts on the environmentally critical areas resources not adequately addressed in the ECA Policies or the requirements of Chapter 25.09. The proposal, as conditioned by this decision, is determined to be consistent with ECA regulations. Potentially adverse impacts are further discussed below.

Short-term Impacts

The following temporary or construction-related impacts are expected: increased soil erosion and sedimentation during general site work; increased runoff; and tracking of mud onto adjacent streets by

construction vehicles. Due to the temporary nature and limited scope of these impacts, they are not considered significant (SMC Section 25.05.794).

Earth (slope stability) and erosion

There is a potential for erosion during excavation of the proposed building footprints. The applicant will follow recommendations from the soils engineer and provide subsurface walls and retaining walls to address soils stability issues. Pursuant to these proposals, and if the requirements of Director's Rule 3-93 and 16-00 (the latter for implementation of Best Management Practices) and Environmentally Critical Areas requirements are complied with, no additional mitigation is necessary.

Long-term Impacts

Long-term or use-related impacts are also anticipated from the proposal: increased surface water runoff from greater site coverage by increased impervious surfaces; and increased demand on public services and utilities. These long-term impacts are not expected to be significant.

The expected long-term impacts are typical of single family residential development and are expected to be mitigated by the City's adopted codes and/or ordinances. Specifically these applicable codes and ordinances are: Building Code requirements and ECA regulations (to ensure that proposed development will be constructed in a safe manner); and the Stormwater, Grading and Drainage Control Code (storm water runoff from additional site coverage by impervious surface). Other impacts not noted here are not sufficiently adverse to warrant further mitigation by conditioning.

DECISION - SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

- [X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030(2)(C).
- [] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2)(C).

**CONDITIONS - ECA CONDITIONAL USE TO RECOVER DEVELOPMENT CREDIT
AND PERMIT CLUSTERED DEVELOPMENT:**

Nonappealable Conditions of Approval Prior to Issuance of a Master Use Permit

1. Record a covenant that restricts development to the area designated on the site plan for disturbance. The covenant shall show the location of permanent ECA markers and provide for their maintenance by the property owners or other responsible parties. The covenant shall be in the form given to the applicant by DPD.
2. Permanent visible markers must be placed along the edge of the nondisturbance area as approved on the site plan. The markers shall be either reinforcing steel or metal pipe driven securely into the ground with a brass cap affixed to the top similar to survey monuments. The brass cap shall be visible at the ground surface and indicate the purpose of the marker. Markers shall be placed at all points along the edge of the nondisturbance line where the line changes direction. Markers must be in place before issuance of this Master Use permit.

Condition of Approval Prior to Issuance of a Master Use Permit

1. A landscape plan shall be submitted, showing specific landscaping proposals for the approved developable area of Parcel B with native plant species, including types of plants and other requirements as specified in DPD Director's Rule 13-92, and including replacement of removed trees. The plan shall be subject to review and approval by DPD.

Nonappealable ECA conditions

Conditions of Approval Prior to Issuance of Any Construction Permits

The owner and/or responsible party shall:

1. Submit for approval by DPD a drainage control plan prepared by a licensed civil engineer meeting the requirements of the City's Stormwater, Grading and Drainage Control Code.
2. Show on the site plan complete calculations for development coverage, impervious surface area, and construction activity areas, noting areas and percentages of site;
3. Show on the site plan location of grading activities, including final grade contours, and drainage control facilities;
4. Show on the site plan location of existing utilities and proposed methods/locations of connection(s) to these services as they relate to the ECAs;
5. Show on the site plan the location of permanent ECA markers;

6. Provide an erosion and sediment control plan, employing Best Management Practices, to minimize erosion on and off site. The plan shall be reviewed and approved by DPD.
7. Submit a sanitary sewer plan for approval by DPD.
8. Building plans must demonstrate that there will be no direct access to the steep slope area from the houses.

CONDITIONS - SEPA

None required.

Signature: _____ (signature on file) Date: February 14, 2005
William K. Mills, Land Use Planner

WKM:bg

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